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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,	**CR 18-145-BLG-SPW**
Plaintiff,	
vs.	**OFFER OF PROOF**
DARRELL LEE WHITEMAN, JR.,	
Defendant.	

The United States, represented by Assistant U.S. Attorney Bryan T. Dake,

files the following offer of proof.

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THE CHARGE

The defendant, Darrell Lee Whiteman, Jr., has been charged by indictment with voluntary manslaughter, in violation of 18 U.S.C. §§ 1153(a) and 1112.

PLEA AGREEMENT

There is not a plea agreement in this case. Whiteman will plead guilty to the sole count in the indictment. The United States presented all formal plea offers to the defendant in writing. The motion for change of plea filed with the Court represents, in the government's view, the most favorable disposition of the case against the defendant. *See e.g., Missouri v. Frye*, 132 S. Ct. 1399 (2012).

ELEMENTS OF CHARGE

In order for the defendant to be found guilty of voluntary manslaughter, in violation of 18 U.S.C. §§ 1153(a) and 1112, as stated in the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant unlawfully killed John Doe;

Second, while in a sudden quarrel or heat of passion, caused by adequate provocation:

  a.   The defendant intentionally killed John Doe; or

  b.   The defendant killed John Doe recklessly with extreme disregard for human life;

Third, the killing occurred within the exterior boundaries of the Northern Cheyenne Indian Reservation; and

Fourth, the defendant is an Indian person, as this term is used and

defined for jurisdictional purposes under 18 U.S.C. § 1153, including having a blood quantum from a federally recognized tribe.

Heat of passion may be provoked by fear, rage, anger, or terror. Provocation in order to be adequate must be such as might arouse a reasonable and ordinary person to kill someone.

A killing is unlawful within the meaning of this instruction if it was neither justifiable nor excusable.

PENALTY

The charge contained in the indictment carries a maximum punishment of 15 years of imprisonment, a $250,000 fine, three years of supervised release, and a $100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On March 4, 2017, the defendant, Darrell Lee Whiteman, Jr., was at his John Doe's house (John Doe is Whiteman's half-brother). They had been together earlier in the evening and were all drinking alcohol. Whiteman was accusing his girlfriend of having sex with John Doe and began arguing with her. John Doe told Whiteman to stop and the two men began fighting. The fight was broken up by another individual.

John Doe then went into the kitchen to get a drink of water. Whiteman grabbed a knife from the kitchen. An individual was then standing in between

Whiteman and John Doe as the two continued to argue. Whiteman then reached around the individual and stabbed John Doe a single time in the chest. Whiteman then left the house and John Doe laid on the kitchen floor. John Doe was later pronounced dead.

An autopsy was performed on John Doe. The autopsy lists the cause of death as "stab wound to the chest" and the manner of death as "homicide." There was a single stab wound to John Doe's chest. The stab wound was 3/4" long, 1/32" inch wide and the wound track was approximately 7" long.

Darrell Lee Whiteman, Jr. is an enrolled member of the Northern Cheyenne Tribe, a federally recognized tribe, and is an Indian person. The location of offense is near Lame Deer, within the exterior boundaries of the Northern Cheyenne Indian Reservation.

DATED this 31st day of January, 2019.

KURT G. ALME
United States Attorney

/s/ Bryan T. Dake
BRYAN T. DAKE
Assistant U.S. Attorney